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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 23rd May 1957

S.E.O. 1785.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 475 of 1957, presented to the Commission on the 9th May, 1957 under section 81 of the said Act, by Shri Gurudayal Das, Son of Shri Gyandas, resident of Satya Nagar, Rae Bareilly, Uttar Pradesh calling in question the election to the House of the People from the Rae Bareilly constituency of that House of Shri Feroze Gandhi, M.P., son of Shri Jehangir Gandhi, resident of Queen Victoria Road, New Delhi and Shri Baijnath Kureel, M.P., son of Shri Bhola, resident of Beliganj, Rae Bareilly, Uttar Pradesh.

Presented to me by Shri Gurudayal Das whose signature has been obtained in the margin and attested as having been signed before me this the Ninth day of May, One Thousand Nine Hundred and Fifty Seven.

(Sd.) DIN DAYAL, Under Secy.
Election Commission India.

(Sd.) GURUDAYAL.

Attested

(Sd.) DIN DAYAL, 19.5.57.

BEFORE THE ELECTION COMMISSION OF INDIA, NEW DELHI

ELECTION PETITION No. 475 of 1957

Gurudayal Das, age 14 years, S/o Gyandas r/o Satya Nagar, Rae Bareilly, Uttar Pradesh.....Petitioner.

Versus

1. Shri Feroze Gandhi, M.P., age 44 years, s/o Jehangir Gandhi, r/o Queen Victoria Road, New Delhi.

2. Sri Baijnath Kureel, M.P., age 36 years, s/o Bhola, r/o Beliganj, Rae Bareilly, Uttar Pradesh.....Respondents

Election Petition U/S 81 of the Representation of the People Act, 1951, relating to election held on 25th and 28th February and 3rd, 6th, 9th and 12th March 1957, to the House of People of India for 360 Rae Bareilly Parliamentary Two Member Constituency in Uttar Pradesh.

The petition of the said Gurudayal Das Sheweth:—

1. That your petitioner was duly nominated and a contesting candidate for election to the House of People of India from 360 Rae Bareilly Parliamentary Two Member Constituency in Uttar Pradesh for the reserved seat for Scheduled Castes and was an independent candidate.

2. That Respondent No. 2, Sri Baijnath Kureel, was also a contesting candidate from the said constituency for the reserved seat for Scheduled Castes. Respondent No. 1, Sri Feroze Gandhi, was a contesting candidate from the said constituency for general seat. Both respondents No. 1 and 2 were official candidates of the Indian National Congress, a recognised party and are returned candidates.

3. That there were three more contesting candidates from the said constituency, one Sri Chhotelal, an official candidate of the All India Bhartiya Jan Sangh, for reserved seat for Scheduled Caste, second Sri Raghavendra Dutta, an official candidate of the Praja Socialist Party of India, a recognised party, for general seat and the third Sri Nand Kishore an official candidate of the Socialist Party of India, an unrecognised party, for general seat.

4. That the election of the said constituency was held on six different days in parts on 25th and 28th February and 3rd, 6th 9th and 12th March, 1957, after a gap of two days, after each part election as fixed by the Returning Officer of the said constituency.

5. That the result of the election of the said constituency was declared on the 25th March, 1957, by the Returning Officer of the said constituency according to which the respondents were declared returned candidates for the general and reserved seats respectively. The result of the election was as follows:—

<i>Electorate</i>	8,04,163.
<i>Votes Polled</i>	7,26,054.
<i>Invalid Votes.</i>	50,697.

General Seat.

1. Sri Feroze Gandhi (Congress)	1,62,595.
2. Sri Nand Kishore (Socialist)	1,33,342.
3. Raghavendra Dutt (Praja Socialist)	94,100.

Reserved Seat

1. Sri Baijnath Kureel (Congress)	1,26,318.
2. Shri Chhotelal (Jan Sangh)	1,00,651
3. Sri Gurudayal Das (Independent)	58,342.

6. That the Election Commission of India had on the basis of the result of the General Elections held in 1952, accorded recognition to (1) The Indian National Congress, (2) The Praja Socialist Party of India, (3) the Communist Party of India and (4) The All India Bhartiya Jan Sangh, as all India Political Parties and 11 other parties as State Political Parties against the provisions of the Constitution of India, the Representation of the People Act, the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, and political justice. All other parties including the Socialist Party of India are un-recognised parties. This recognition of political parties materially affected the result of the election in so far as it gave undue advantages to the respondents being official candidates of the said Indian National Congress Party.

7. That the provision:—

“the choice to be made by a candidate under this sub-rule shall be subject to such restrictions as the Election Commission may think fit to impose in that behalf.”

in clause (a) to the proviso of sub-rule (2) of Rule 5 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, and in exercise of which the Election Commission in its Notification No. 56/1/56-2 dated November 12th, 1956, has made a reservation of the first 4 symbols for the said All India recognised parties and some symbols for the state recognised parties in para 6 above, from the list of symbols for elections, published in the Gazette of India in the Election Commission's Notification No. 56/1/56, dated November 12th, 1956, which none else other than the official candidates, of the said recognised parties could choose and which caused an inequality of your petitioner before law, are against the fundamental right guaranteed in Article 14 of the Constitution of India and Political Justice. This reservation of symbols materially affected the result of the election.

8. That in Rule 10 of the Representation of People (Conduct of Elections and Election Petitions) Rules, 1956, as regards allotment of symbols the portions:—

"(10)(1)..... subject to any general or special direction issued in this behalf by the Election Commission.

(a) different

(2) except where it is inconsistent with the direction issued by the Election Commission in this behalf in which case, the Election Commission may revise the allotment in such manner as it thinks fit"

and according to which the Election Commission in its letter No. 56/2/56 dated November 24th 1956, addressed to all Chief Electoral Officers, had made an allotment of symbols to the said recognised Political Parties in para 6 above even two months before the Notification dated 19th January 1957 by the President of India, calling upon Parliamentary Constituencies to elect representatives whereby the said recognised political parties got a definite period of 3 months before polling began for making a propaganda of their party symbols among the electors for the contesting candidates on behalf of the said recognised parties in para 6 above and while your petitioner had been allotted a symbol by the Returning Officer on 4th February, 1957, after 3 p.m. whereby your petitioner got a period of 20 days only for making propaganda of your petitioner's symbol among the electors, had caused an inequality of your petitioner before law against the fundamental right guaranteed in Article 14 of the Constitution of India and Political Justice. Due to this non-compliance with the provision of the Constitution, your petitioner could not move personally among the electors in such a Parliamentary two members Constituency having 8,04,165 electors to acquaint the electorates with your petitioner's symbol within such a short time of 20 days after getting the pamphlets etc. printed at least all the bazar towns and therefore your petitioner suffer seriously in the election. Your petitioner could only visit 8 bazar towns for distributing pamphlets. Thus this inequality of your petitioner before law materially affected the result of the election.

9. That the Election Commission by an allotment of symbols to the said recognised political parties in para 6 above has created an brought a new kind of man into the field of election against the provisions of the Constitution of India, the Representation of the People Act and the Representation of the People (Conduct of Elections and Election Petitions) rules, 1956, which materially affected the result of the election in so far as your petitioner has to face this new kind of man represented by the respondents.

10. That for the purpose of elections in a two members Parliamentary and Assembly Constituencies in which one seat is reserved for Scheduled Caste or Tribes the Election Commission in exercise of the powers conferred on it by sub-rule 1 of Rule 10 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, issued a direction regarding the allotment of symbols allotted to the said recognised political parties in para 6 above, by putting the symbols within a thick black circle for Scheduled Castes or Tribes contesting candidates as official candidates of the said recognised political parties against Rule 5 of the Representation of the People (Conduct of Elections and Election Petitions) rules, 1956, and Political Justice instead of a quite separate symbol for such candidates. The Indian National Congress, a recognised party, has been allotted by the Election Commission the symbol "Two Bullocks with Yoke on". The respondents are the official candidates of this party. Both the respondents contested the election with this one symbol except with the difference that the symbol of respondent No. 2 was put within a thick black circle. The Election Commission has not declared and published this "Thick Black Circle" as a symbol in the list of symbols published in its Notification No. 56/1/56 dated November 12th, 1956, as required by sub-rule 1 of Rule 5 of the Representative of the People (Conduct of Elections and Election Petitions) Rules, 1956. The Indian National Congress Party also made a propaganda of this one symbol "two bullocks with yoke on" only among the electorates for their information through posters issued from its office and affixed in various conspicuous places throughout the constituency and through slogans "Vote Tumhara Kahaa Padega, Baillan Wale Baksa Mai" shouted systematically

whenever processions were taken out in different parts of towns and villages in the Constituency and accordingly both the respondents took benefit of one symbol. These circumstances, therefore materially affected the result of the election.

11. That the Election Commission directed a supply of copies of electoral rolls free of cost only to the said recognised political parties in para 6 above for the use of official candidates of such parties. The respondents being the official candidates of the Indian National Congress Party got a benefit to the extent of the cost of the electoral rolls for the said Constituency while your petitioner was required to purchase a copy of the electoral rolls. Your petitioner, however, did not purchase a copy of the electoral rolls and contested the election without it. This direction of the Election Commission caused an inequality of your petitioner before law against the fundamental right guaranteed in Article 14 of the Constitution of India and Political Justice and materially affected the result of the election.

12. That in clause (iv) of sub-section (1) of Section 100 of the Representation of the People Act, 1951 (43 of 1951) regarding grounds of Election Petition, the portion—

“by any non-compliance with the provisions of the Constitution”

prevented your petitioner from seeking a constitutional remedy for the enforcement of fundamental right guaranteed in Article 14 of the Constitution of India, in the High Court of Allahabad or the Supreme Court of India, and which materially affected the election result.

13. That your petitioner brought to the notice of the Government of India, Ministry of Law and Election Commission, the legal defects pointed out in paras 6, 7, 8, 9, 10, 11 and 12 above and some other defects causing political injustice to your petitioner by registered notice dated 15th February 1957 and delivered to them on 18th February 1957 prior to polling.

14. That your petitioner had deposited a sum of Rs. 1,000 as security for the cost of this petition in the Government Treasury, Rae Bareilly on 7th May, 1957 in favour of the Secretary to the Election Commission of India, and a receipt is enclosed with this petition.

PRAYER

Your petitioner, therefore, prays to declare that the election of both the respondents as returned candidates is void

7th May, 1957

GURUDAYAL DAS,

Petitioner.

I, Gurudayal Das, declare that the contents of paragraphs 1 to 14 of the above petition are true within my personal knowledge. Verified at Rae Bareilly, this, the 7th day of May, 1957

GURUDAYAL DAS,

[No. 82/475/57]

By order,

DIN DAYAL, Under Secy.